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From:

Sent: Friday, March 1, 2013 3:48 PM

To:

Cc:

Subject: Re: follow-up

Since the open years for the plan you are reviewing are and , the transition rules under section 409A are not applicable. The plan would be subject to the Final section 409A regulations during those years. However, there are grandfathering rules in section 1.409A-6 of the regulations that may be applicable. If no amounts were deferred under the plan in taxable years beginning after Dec. 31, 2004, and the plan was not materially modified after Oct. 3, 2004, the plan is not subject to section 409A.

Please let me know if you have any other questions.

Thanks,